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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/046,833	03/24/1998	DAKAI LIU	ENZ-56(DIV4)	2594

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ENZO THERAPEUTICS, INC.
C/O ENZO BIOCHEM INC.
527 MADISON AVENUE 9TH FLOOR
NEW YORK, NY 10022

EXAMINER

GUZO, DAVID

ART UNIT PAPER NUMBER

1636

DATE MAILED: 10/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application N .

09/046,833

Applicant(s)

LIU ET AL.

Examin r

David Guzo

Art Unit

1636

--The MAILING DATE f this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 29 July 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: The Terminal Disclaimer filed 7/29/03 has been entered.

DAVID GUZO

PRIMARY EXAMINER

Continuation of 2. NOTE: the amendment will not be entered because it does not comply with 37.C.F.R.1.121, specifically, the amended claims do not contain bracketing and underlining to identify changes to the claims.

Continuation of 5. does NOT place the application in condition for allowance because: First, the arguments directed to the claims as amended are moot given the non-entry of the instant amendment. Second, applicants' characterization of the teachings of *Finer et al.* and *Bodner et al.* is not agreed with. For example, *Finer et al.* teaches that packaging cells can be transfected with constructs encoding multiple *env* genes (See for example column 30, lines 46-52 and claims 9, 14, etc.). *Bodner et al.* teaches that packaging cells and retroviral vectors can be generated which comprise two different non-nucleic acid components, each with a different tropism. The property that one component has a tropism which is not utilized is irrelevant to the instant claims since the vector or cell has the component and it inherently has a tropism for a cell type. If the vector or cell has another component that controls tropism of the virus to a specific target cell does not negate the fact that the vector or cell has two components which each have different tropisms.